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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,626	07/09/2003	David P. Burks	100202971-1	1470

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HEWLETT PACKARD COMPANY  
P O BOX 272400, 3404 E. HARMONY ROAD  
INTELLECTUAL PROPERTY ADMINISTRATION  
FORT COLLINS, CO 80527-2400

EXAMINER

GU, SHAWN X

ART UNIT	PAPER NUMBER
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2189

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/615,626	BURKS, DAVID P.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Shawn Gu	2189	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>9 July 2003</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

*PD*

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 9 July 2003 was filed after the mailing date of the application on 9 July 2003. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Claim Objections***

2. Claim 11 is objected to because of the following informalities: the word "sever" appears to be misspelled. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 12 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

5. As for claim 12, it is clear to the examiner how the said files are stored in a compressed audio encoding format, but it is unclear to the examiner how the said files

Art Unit: 2189

are also stored in a format associated with at least one of said files' respective property information indicative of a right to restore an associated one of said files.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 2, 3, 5, 6, 7, 9, 10, 13, 17, 22, 24, 25, 27 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. As for claims 6, 13, 22 and 28, the term "sufficient" in claims 6, 22 and 28, and the term "compatible" in claim 13 are relative terms which render the claims indefinite. The terms "sufficient" and "compatible" are not defined by the claims, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

9. As for claim 9, it is unclear to the examiner whether the single copy of an audio file is stored in the said list, or in some other storage medium.

10. As for claims 2, 3, 5, 6, 7, 10, 13, 17, 24, 25, 27 and 28, it is unclear to the examiner whether the terms "said files", "each of the files", or "each file" in the claims refer to the "plurality of files" or the "list of files" in the claims they are dependent on.

### ***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1, 5, 6, 10, 11, 13, 16, 21, 22, 23, 25, 27, 28 are rejected under U.S. C. 102(b) as being anticipated by Belknap et al. [US 2001/0042170 A1].

13. As for claims 1 and 16, Belknap et al. discloses a method of backing-up files or a computer program product comprising computer readable program code means (Page 1, Paragraph 0013) for causing:

a computer (client 100, Fig 2) to store a plurality of files (Page 4, Paragraph 0054) on a local device (Page 2, Paragraph 0026; client 100 must have a storage medium if it can retrieve media objects);

a computer (library server 210, Fig 2) to identify an ownership property associated with each of the files (Page 2, Paragraphs 0027 and 0028);

a computer (client 100, Fig 2) to transmit a list of the files along with the associated ownership property to a backup/restoration service (Page 2, Paragraphs 0026, 0028 and 0029); and

a computer (client 100, Fig 2) to request restoration of at least one of said plurality of files, and selectively restore files associated with an appropriate status of the ownership property (Page 2, Paragraphs 0026, 0027 and 0028).

14. As for claim 11, Belknap et al. discloses a system (Fig 2) comprising:

a storage medium configured to store (Page 2, Paragraph 0026; client 100 must have a storage medium if it can retrieve media objects) a plurality of files (Page 4, Paragraph 0054);

a communications link for transmitting a list of the files to a remote location (Page 2, Paragraph 0025 and 0026); and

a file server (library server 210, media object server 220, media server 130, media archive 140, Fig 2) located at the remote location, said file server connected to the communications link and operable to receive and store the list of files and responsive to a restoration request for selectively restoring at least one of the files associated with an appropriate status of an ownership property associated with the files (Page 2, Paragraph 0026-0029).

15. As for claim 23, Belknap et al. discloses a system (120 Figure 2, media server 130, Fig 2) comprising means for:

storing (Page 2, Paragraph 0026; Page 3, Paragraph 0032) a plurality of files (Page 4, Paragraph 0054);

receiving a list of files stored at a remote location (client 100, Fig 2), the list of files include an ownership property associated with each of the listed files (Page 2, Paragraph 0026 and 0028);

storing the list of files (Page 2, Paragraph 0026);

receiving a restoration request (Page 2, Paragraph 0026; Page 3, Paragraph 0036) from the remote location (client 100, Fig 2); and

restoring the files to the remote location (Page 2, Paragraph 0026).

16. As for claims 5, 21 and 27, Belknap et al. further discloses storing, for each of the files, content (Page 2, Paragraph 0031) and property right information (Page 2, Paragraph 0028).

Art Unit: 2189

17. As for claims 6, 22, and 28, Belknap et al. further discloses storing, for the each file, content information including digitized audio data (Page 2, Paragraph 0025; Page 4, Paragraph 0054) and property right information including indicia of an ownership right of said content information sufficient to allow making a restoration copy thereof (Page 2, Paragraphs 0028 and 0029).

18. As for claim 10, Belknap et al. further discloses associating indicia of copying rights with said files (Page 2, Paragraph 0028 and 0029); and selectively storing backup copies of said files on a remote storage medium in response to said indicia (Page 2, Paragraphs 0026 and 0029).

19. As for claim 13, Belknap et al. discloses the said file server further comprises a digital mass storage device (digital library 120, media server 130, media archive 140, Fig 2) configured to restore at least one of said files onto a restoration medium (a second library client 100, Page 2, Paragraph 0026) compatible with said storage medium.

20. As for claim 25, Belknap et al. further discloses downloading one of said files (Page 3, Paragraph 0038) from a remote server (media archive 140, Fig 2).

### ***Claim Rejections - 35 USC § 103***

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. Claims 2, 3, 4, 7, 8, 12, 17, 18, 19, 24, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Belknap et al., further in view of Vilcauskas et al. [US 2002/0152874 A1].

23. As for claims 2 and 17, Belknap et al. does not teach assembling said files into a collection, and transmitting indicia of said files included in the collection. However, Vilcauskas et al. teaches an audio file storage and copyright management system wherein audio files are assembled into a collection (album/group of association songs/group of audio files, Page 2, Paragraph 0024) and indicia of said files included in the collection are transmitted (downloaded, Page 2, Paragraph 0024), in order to facilitate collective management of copyright licensing of the audio files in the collection. It would have been obvious to one ordinarily skilled in the art at the time of the applicant's invention that Belknap et al.'s multimedia data storage system can improve its media object/file ownership management by incorporating these features.

24. As for claims 3 and 24, Belknap et al. discloses transferring content information corresponding to said files to a digital (digital library 120, Page 2, Paragraph 0025) storage medium (library catalog 212, Fig 2), but does not teach shipping said digital storage medium to a requestor of a restoration service. However, Vilcauskas et al. discloses that a digital storage medium (compact disk, Page 5, Paragraph 0044) containing content information (Page 3, Paragraph 0027) is shipped (Page 5, Paragraph 0044) to a requestor of a restoration service (user of the system, Page 3, Paragraph 0027), in order to make the storage medium and the content information available to the



Art Unit: 2189

requestor. Therefore, it would have been obvious to one ordinarily skilled in the art at the time of the applicant's invention that Belknap et al.'s invention can make the digital storage medium containing the content information available by shipping it to the requestor.

25. As for claims 4, 18 and 26, Belknap et al. does not teach reading file information from a plurality of removable media, converting a format of said file information, and storing the converted files on the local device. However, Vilcauskas et al. teaches an audio file storage and sharing system ([www.napster.com](http://www.napster.com), Page 1, Paragraph 0005) where file information is read from a plurality of removable media, converting a format of said file information, and storing the converted files on a local device (sample the music on compact disks thereby creating compressed music files in MP3 format then store on the user's hard drive, Page 1, Paragraph 0005), in order to enable the storage from multiple sources and sharing of audio files in a common format. It would have been obvious to one ordinarily skilled in the art at the time of the applicant's invention that Belknap et al.'s multimedia data storage system can enjoy these advantage by allowing the clients 100 (Fig 2, Belknap et al.) to read file information from removable medias, converting a format of the files, then store them locally, before storing the files to the digital library 120.

26. As for claims 7 and 19, Belknap et al. discloses storing for each of the files content information as described above, but does not teach storing for the each of files performance information. However, Vilcauskas et al. teaches the storing of performance information (artist, name of album, name of songs, genre, etc, Page 2,

Art Unit: 2189

Paragraph 0024) for each of the files in order to permit the search for and selection of songs by these criteria (Page 4, Paragraph 0032). Therefore, it would have been obvious to one ordinarily skilled in the art at the time of the applicant's invention that Belknap et al.'s multimedia data storage system can provide better searching functions to the clients if it stored performance information for each of the files.

27. As for claim 8, Belknap et al. teaches storing audio files (Page 4, Paragraph 0054), but does not teach storing them in a psychoacoustic compressed format. However, Vilcauskas et al. teaches an audio file storage and sharing system ([www.napster.com](http://www.napster.com), Page 1, Paragraph 0005) where the audio files are stored in a psychoacoustic compressed format (creating compressed music files in MP3 format then store on the user's hard drive, Page 1, Paragraph 0005), in order to reduce storage space and enable sharing of audio files in a common format. Therefore, it would have been obvious to one ordinarily skilled in the art at the time of the applicant's invention that Belknap et al.'s multimedia data storage system can enjoy these advantages by storing the audio files in a psychoacoustic compressed format.

28. As for claim 12, the claim is already substantially described above in claims 4, 8 and 11.

29. Claims 9 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Belknap et al., further in view of Whiting et al. [US 2002/0107877 A1].

30. As for claims 9 and 14, Belknap et al. already substantially discloses the claims as described above, but it does not teach storing a single copy of an audio file for a plurality of subscribers designating said audio file in said list storing a common copy of

each distinctive file reference by any one of plurality of lists. However, Whiting et al. discloses a file backup system where duplicate files are identified so that only a single copy of the files is stored in the backup storage, in order to significantly reduce both the amount of storage and the amount of network bandwidth required for performing the backup (see Abstract). Therefore, it would have been obvious to one ordinarily skilled in the art at the time of the applicant's invention that Belknap et al.'s system can save storage medium and communications link bandwidth by storing a single common copy of each distinctive file in any one of the lists.

31. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Belknap et al., further in view of Vilcauskas et al. and Tokue [US 2002/0002413 A1].

32. As for claim 15, Belknap et al. already substantially discloses the claim in further view of Vilcauskas et al, but does not teach that the storage medium comprises a digital audio system including a removable media player configured to read audio media.

However, Tokue discloses music digital data storage and distribution system where the contents are encrypted with compression technologies such as MP3 and transmitted over a communications link (communication network 6, Fig 1) to a storage medium comprising a digital audio system (hard disk 14, personal computer 13, portable audio player 15, all of Fig 1) and then copied to a recording medium of a removable media player (portable audio player 15, Fig 1). This arrangement enables the user to listen to the downloaded music on a portal device thereby enjoying increased mobility.

Therefore, it would have been obvious to one ordinarily skilled in the art at the time of the applicant's invention that Belknap et al.'s system in further view of Vilcauskas et al's

Art Unit: 2189

system, can improve user mobility by providing a removable media player configured to read audio media.

33. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Belknap et al., further in view of Vilcauskas et al. and Hars [US 6,925,342 B2].

34. As for claim 20, Belknap et al. already substantially discloses the claim in further view of Vilcauskas et al, but does not teach identifying a source medium as a stamped compact disc and recognizing watermarks present in the files. However, Hars discloses a digital media system that provides a program to identify a source medium as a stamped compact disc (Page 2, Lines 10-13) and to recognize watermarks present in the files (Page 2, Lines 20-24 and Lines 40-44), in order to provide a protection system to guard against copyright abuse. Therefore, it would have been obvious to one ordinarily skilled in the art at the time of the applicant's invention that Belknap et al.'s multimedia data storage system in further view of Vilcauskas et al., can improve its media object/file ownership management by incorporating these features.

### ***Conclusion***

35. The prior arts made of record and not relied upon are considered pertinent to applicant's disclosure.

Patent No:

US 6,405,294 B1

Data Center Migration Method and System Using  
Data Mirroring

US 2004/0199654 A1

Music Distribution System

US 6,515,212 B2	Recording/Reproduction System of Music Data, and Music Data Storage Medium
US 2003/0195854 A1	Device and Method for the Copy-Protected Distribution of Electronic Documents
US 2003/0208678 A1	Media and Multimedia Data Authentication and Control Method
US 6,564,380 B1	System and Method for Sending Live Video on the Internet
US 2003/0093790 A1	Audio and Video Program Recording, Editing and Playback Systems Using Metadata
US 2003/0037010 A1	Copyright Detection and Protection System and Method
US 6,941,300 B2	Internet Crawl Seeding

36. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawn Gu whose telephone number is (571) 272-0703. The examiner can normally be reached on 9am-5pm, Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mano Padmanabhan can be reached on (571)272-4210. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

Art Unit: 2189

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

S.G.

Shawn X Gu  
Assistant Examiner  
Art Unit 2189

16 September 2005

A handwritten signature in black ink, appearing to read "Gary Portka", written in a cursive style.

**GARY PORTKA**  
**PRIMARY EXAMINER**